

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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CHARLES DIDIER CALIXTE,

Plaintiff,

-against-

IRS.gov,

Defendant.

**MEMORANDUM AND ORDER**  
21-CV-1419 (RPK) (LB)

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RACHEL P. KOVNER, United States District Judge:

*Pro se* plaintiff Charles Didier Calixte filed this action against IRS.gov, alleging that the Internal Revenue Service (“IRS”) withheld one of his stimulus checks. *See* Compl. (Dkt. #1). Plaintiff also moves to proceed *in forma pauperis*. *See* Mot. for Leave to Proceed In Forma Pauperis (Dkt. #2). Plaintiff’s request to proceed *in forma pauperis* is granted. But plaintiff’s complaint is dismissed because it “seeks monetary relief against a defendant who is immune from such relief.” 28 U.S.C. § 1915(e)(2)(B)(iii).

Suits against the United States and federal agencies require “a cause of action, subject matter jurisdiction, and a waiver of sovereign immunity.” *Presidential Gardens Assoc. v. Sec’y of Hous. and Urban Dev.*, 175 F.3d 132, 139 (2d Cir. 1999). Unless Congress has authorized an agency to be sued in its own name, an action may not be maintained against that agency. *Blackmar v. Guerre*, 342 U.S. 512, 515 (1952). Congress has not authorized suit against the IRS. *See Liffiton v. Keuker*, 850 F.2d 73, 77 (2d Cir. 1988). Accordingly, the IRS has immunity against plaintiff’s requested relief.

Plaintiff is granted thirty days from the date of this order to file an amended complaint against proper defendants. If plaintiff fails to amend the complaint within thirty days, judgment

shall be entered. Any amended complaint will completely replace, not supplement, his original complaint. The Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal would not be taken in good faith and therefore in forma pauperis status is denied for the purpose of any appeal.

*Coppedge v. United States*, 369 U.S. 438, 444-45 (1962).

SO ORDERED.

/s/ Rachel Kovner  
RACHEL P. KOVNER  
United States District Judge

Dated: August 26, 2021  
Brooklyn, New York